

### **Remarks**

The above Amendments and these Remarks are in reply to the Office Action mailed June 12, 2007. A Petition for Extension of Time is submitted herewith, together with the appropriate fee.

#### **I. Summary of Examiner's Rejections**

Prior to the Office Action mailed June 12, 2007, Claims 1-30 were pending in the Application. In the Office Action, Claims 1-4, 6-10, 14-17, and 21-24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Subbiah et al. (U.S. Patent No. 6,538,992, hereinafter Subbiah) in view of Briscoe et al. (U.S. Publication No. 2005/0286488, hereinafter Briscoe). Claims 5, 11, and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Subbiah in view of Briscoe in further view of Lefebvre (U.S. Patent No. 7,123,619). Claims 7, 9, 14 and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Subbiah in view of Briscoe et al. and further in view of Henderson et al. (U.S. Patent No. 7,133,400). Claims 12, 13, 19, 20 and 25-30 were rejected under 35 U.S.C. 103(a) as being unpatentable over Subbiah in view of Briscoe in further view of Baum et al. (U.S. Patent No. 6,850,495).

#### **II. Summary of Applicant's Response**

The present Response amends Claims 1, 2, 8, 15 and 21-24 and adds new Claim 31, leaving for the Examiner's present consideration Claims 1-31. Reconsideration of the Application is respectfully requested. Applicant respectfully reserves the right to prosecute any originally presented or canceled claims in a continuing or future application.

#### **III. Claim Rejections under 35 U.S.C. §103(a)**

In the Office Action, Claims 1-4, 6-10, 14-17, and 21-24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Subbiah et al. (U.S. Patent No. 6,538,992, hereinafter Subbiah) in view of Briscoe et al. (U.S. Publication No. 2005/0286488, hereinafter Briscoe). Claims 5, 11, and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Subbiah in view of Briscoe in further view of Lefebvre (U.S. Patent No. 7,123,619). Claims 7, 9, 14 and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Subbiah in view of Briscoe and further in view of Henderson et al. (U.S. Patent No. 7,133,400). Claims 12, 13, 19, 20 and 25-30 were rejected under

35 U.S.C. 103(a) as being unpatentable over Subbiah in view of Briscoe in further view of Baum et al. (U.S. Patent No. 6,850,495, hereinafter Baum).

### **Claim 1**

Claim 1 has been amended to more clearly define the embodiment therein. As amended, Claim 1 defines:

- 1. A system for providing two qualities of service from a single data stream, comprising:*
- (a) a storage space that stores at least one of a first quality of service choice and a second quality of service choice for each of a plurality of users;*
  - (b) a processor programmed to receive a message in a data stream, make a determination of the quality of service choice for at least one of the plurality of users and direct the message to each user according to that user's quality of service choice;*
  - (c) multicasting apparatus that receives the data stream from the processor and multicasts the data stream to each user for which the first quality of service choice is stored in said storage space; and*
  - (d) a point-to-point device that receives the data stream from the processor and transmits the data stream utilizing a point-to-point protocol which ensures that each user for which the second quality of service is stored in said storage space receives the data stream;*
- wherein multicasting the data stream and transmitting the data stream utilizing the point-to-point protocol is performed such that a single message received to the system is transmittable via both qualities of service.*

As amended, Claim 1 defines a system for providing two qualities of service from a single data stream. More specifically, a user's choice regarding the quality of service is first stored in a storage space. The processor then receives an incoming message and makes a determination of the quality of service choice and directs the message to the user according to that user's quality of service choice. This is performed such that a single message received to the system is transmittable via both qualities of service.

One advantage of this type of functionality is the ability to receive all types of incoming messages and direct them according to the user's quality of service choice. Therefore, the messages need not have been designated as being specific to any particular QOS and the server can take the incoming messages and deliver them according to the receiver's QOS selection.

Subbiah teaches an adaptive scheduling method and apparatus to service multilevel QOS

in AAL2. More specifically, Subbiah appears to receive packets and group them into queues based on their QOS level. Thus, as each user has a QOS requirement, Subbiah receives packets designated with that QOS requirement and assigns the packets into queues based on that QOS requirement.

Briscoe teaches a communications network. More specifically, Briscoe was cited as explicitly supporting multiple QOS levels for customers wherein multicast and unicast services are provided to customers based on their QOS. However, Applicant respectfully submits that Subbiah in combination with Briscoe (the cited references) fail to render obvious the features of Claim 1, as amended.

Upon closer inspection, it will become apparent that the cited references fail to disclose multicasting the data stream and transmitting the data stream utilizing the point-to-point protocol such that a *single message received to the system is transmittable via both qualities of service*, as defined in amended Claim 1. This feature of claim 1 allows the server to receive any message and then direct it to the user according to that user's QOS in either multicast or point-to-point protocol, or both. This allows messages which are not designated as any particular QOS to be transmitted in either, or both delivery methods. The cited references fail to disclose this feature.

Instead, Subbiah describes a system that appears to take incoming packets which are designated with a specific QOS requirement and separate the packets into different delivery queues based on that requirement. (e.g. see "the packet's QOS recorded in the memory is checked," "call requests having a QOS requirement," etc.) Because the user's QOS requirement appears to be built into the packets, Subbiah is therefore merely describing a system for separating traffic into appropriate queues based on that designation. As such, there is no disclosure of and it would not be possible for a single message to be transmittable via both qualities of service, as defined in amended Claim 1. Similarly, Briscoe also fails to disclose the foregoing feature.

In addition, the cited references fail to disclose the feature of multicasting the message stream to some users and point-to-point delivering to other users based on their QOS selections, as defined in Claim 1. While Subbiah describes separating incoming packets into queues based on the QOS designation on those packets, the Subbiah system does not make the determination to transmit to the user via multicast or via point-to-point according to the user's specified choice, as defined in amended Claim 1. Similarly, while Briscoe does mention the general notion of

multicasting and unicasting to different users, it does not describe selectively making the determinations in the manner defined in Claim 1, as amended.

In light of the above comments, Applicant respectfully submits that Claim 1, as amended, is neither anticipated by, nor obvious in view of the cited references, and reconsideration thereof is respectfully requested.

#### **Claims 8, 15 and 21-24**

Claims 8, 15 and 21-24, while independently patentable, recite limitations that, similarly to those discussed above with respect Claim 1, are not taught, suggested, nor otherwise rendered obvious by the cited references. Reconsideration thereof is respectfully requested.

#### **Claims 2-7, 9-14, 16-20 and 25-30**

Claims 2-7, 9-14, 16-20 and 25-30 are not addressed separately, but it is respectfully submitted that these claims are allowable as depending from an allowable independent claim, and further in view of the comments provided above. Applicant respectfully submits that Claims 2-7, 9-14, 16-20 and 25-30 are similarly neither anticipated by, nor obvious in view of the cited references, and reconsideration thereof is respectfully requested.

It is also submitted that these claims also add their own limitations which render them patentable in their own right. Applicant respectfully reserves the right to argue these limitations should it become necessary in the future.

#### **IV. Additional Amendments**

The present Response hereby adds new dependent Claim 31. Applicant respectfully submits that new Claim 31 is not anticipated nor rendered obvious by the cited references and consideration thereof is respectfully requested.

#### **V. Conclusion**

In view of the above remarks, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and reconsideration thereof is respectfully requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

Enclosed is a PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. § 1.136 for extending the time to respond up to and including November 9, 2007.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: November 9, 2007

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